

STATE OF INDIANA  
COUNTY OF MARION

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IN THE MARION SUPERIOR COURT  
CAUSE NO. 490109909 CP 00 1353

STATE OF INDIANA,  
Plaintiff,

v.

OMEGA MERCHANDISING SYSTEMS, INC.  
Defendant.

**FILED**

SEP 27 1999

*James M. Taylor*  
CLERK OF THE  
MARION CIRCUIT COURT

**VERIFIED COMPLAINT FOR INJUNCTION, RESTITUTION AND CIVIL  
PENALTIES**

The State of Indiana, by Attorney General Jeffrey Modisett and Deputy Attorney General Eric Jackson, petitions the Court pursuant to the Indiana Business Opportunity Transactions Act, Ind. Code 24-5-8-1 et seq., and the Indiana Deceptive Consumer Sales Act, Ind. Code 24-5-0.5-1 et seq., for injunctive relief, restitution, civil penalties, investigative costs, and other relief.

**FACTS**

1. The Defendant, Omega Merchandising Systems, Inc., is a foreign corporation with its principal place of business located at 7150 E. Camelback Rd., Ste. 300, Scottsdale, AZ, 85251.
2. At all times relevant hereto, the Defendant was engaged in the business of selling vending machine business opportunities to the general public and has engaged in the solicitation of said business opportunity within the State of Indiana since at least September 1999.
3. The Defendant's offer of an investment in vending machines to Indiana consumers is a "business opportunity" as defined by Ind. Code 24-5-8-1.

**VIOLATIONS OF THE BUSINESS OPPORTUNITY TRANSACTIONS ACT**

4. The Defendant failed to obtain a surety bond in favor of the State of Indiana prior to offering to sell its business opportunity to Indiana investors, in violation of Ind. Code 24-5-8-3.

5. The Defendant failed to file a copy of the disclosure statement and surety bond and pay the filing fee required by Indiana law with the Consumer Protection Division of the Office of the Attorney General prior to placing any advertisement or making any representation to any Indiana consumer about said business opportunity, in violation of Ind. Code 24-5-8-4.

#### VIOLATIONS OF THE INDIANA DECEPTIVE CONSUMER SALES ACT

6. The Defendant's violations of Indiana's Business Opportunity Transactions Act, Ind. Code 24-5-8-1 et seq. are violations of Indiana's Deceptive Consumer Sales Act, Ind. Code 24-5-0.5-1 et seq.

7. The Defendant's violations of Indiana's Business Opportunity Transactions Act, Ind. Code 24-5-8-1 et seq. were made with knowledge and intent to deceive.

8. The Defendant's violations of Indiana's Business Opportunity Transactions Act constitute "incurable deceptive acts" as defined by Ind. Code 24-5-0.5-2(7).

#### IRREPARABLE HARM

9. The deceptive acts set forth above will continue and will cause irreparable injury unless the Defendant is enjoined from engaging in further conduct which violates Ind. Code 24-5-8-1 et seq., and 24-5-0.5-1 et seq.

#### RELIEF

WHEREFORE, the Plaintiff, State of Indiana, requests the Court enter judgment against the Defendant, Omega Merchandising Systems, Inc., and order the following relief:

- a. A permanent injunction pursuant to Ind. Code 24-5-8-18 and Ind. Code 24-5-0.5-4(c)(1), enjoining the Defendant, its agents, representatives, employees, successors, and assigns from engaging in conduct in violation of Ind. Code 24-5-8-1 et seq., or Ind. Code 24-5-0.5-1 et seq.;
- b. Cancellation of the Defendant's business opportunity contracts with Indiana investors pursuant to Ind. Code 24-5-8-15 and 16, and pursuant to Ind. Code 24-5-

0.5-4(d);

c. Restitution pursuant to Ind. Code 24-5-8-16 and pursuant to Ind. Code 24-5-0.5-4(c)(2), in the amount of all consideration paid to the Defendant by Indiana investors for their purchase of vending machine business opportunities;

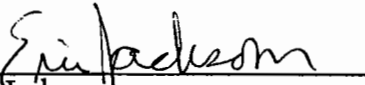
d. Costs pursuant to Ind. Code 24-5-0.5-4(c)(3), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action;

e. Civil penalties pursuant to Ind. Code 24-5-0.5-4(g), for the Defendant's knowing violations of the Deceptive Consumer Sales Act, in the amount of five hundred dollars (\$500.00) per violation, payable to the State of Indiana;

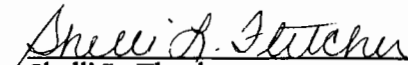
f. Civil penalties pursuant to Ind. Code 24-5-0.5-8, for the Defendant's intentional violations of the Deceptive Consumer Sales Act, in the amount of five hundred dollars (\$500.00) per violation, payable to the State of Indiana; and

g. All other just and proper relief.

Respectfully submitted,  
Jeffrey Modisett  
Attorney General of Indiana  
Atty. No. 14704-49

By:   
Eric Jackson  
Deputy Attorney General  
Atty. No. 19415-49

I affirm, under the penalties for perjury, that the foregoing representations are true and accurate to the best of my knowledge and belief.

  
Shelli L. Fletcher

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